

## **Remarks/Arguments**

Applicants respectfully request consideration of the subject application as amended herein. This Amendment is submitted in response to the Office Action mailed January 25, 2008, which was made final. Claims 1-28 are rejected.

In this Amendment, claims 1, 8, 10, and 19 have been amended. No claims have been canceled. It is respectfully submitted that the amendment does not add new matter. Therefore, claims 1-28 are presented for examination.

Applicants reserve all rights with respect to the applicability of the Doctrine of Equivalents.

## **Claim Rejections under 35 U.S.C. §102(e)**

The Examiner has rejected claims 1-20 and 22-28 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,832,253 to Auerbach.

Auerbach discusses a proximity-based content control method "propagates" or positions content based upon "proximity" between various nodes on a network. Auerbach's nodes are independently evaluated. There is no concept in Auerbach of a grouping of nodes.

Applicants respectfully submit that Auerbach doesn't have the concept of an "arena" defining a group of nodes wherein at least one arena has a plurality of nodes. As described in the Specification, an arena is a set of nodes on a network. Arena 204 is a collection of nodes that can be specified by a system administrator. In one embodiment, an arena in arena 204 is defined by a set of edge routers. (Specification, paragraph 34).

The Examiner says "Determining whether a client is a member of an arena is done by proximity between the client and potential video servers." Applicants respectfully submit that this ignores the concept of having an arena with a plurality of nodes within the arena, as recited in the claims as amended. In Auerbach, each node's proximity to a client is evaluated individually, there is no grouping of nodes. (Auerbach, column 6, lines 42-55). Therefore, Auerbach does not teach or suggest the use of an "arena having a plurality of nodes."

Claim 1 recites in part "if the client is a member of the arena, applying routing rules to the delivery of content to the client, including routing rules specific to the arena." The Examiner suggests that Auerbach, at column 8, lines 56-67 defines proximity as functioning along a specific network path. This is correct, however, this has no connection to having an "arena" and routing content in accordance with routing rules specific to the arena. As noted above, claim 1, as amended, defines at least one arena as having a plurality of nodes. Therefore, those plurality of nodes share routing rules, per claim 1. Auerbach does not teach or suggest such a set of routing rules, nor such an arena. Therefore, claim 1, and claims 2-9 are not anticipated by Auerbach.

Claim 10, as amended, recites in part "if the client is a member of the arena, applying routing rules to the delivery of content to the client, including routing rules specific to the arena." As noted above, Auerbach does not teach or suggest an arena having a plurality of nodes, nor the use of routing rules specific to the arena. Therefore, claim 10, and claims 11-18 which depend on it, are not anticipated by Auerbach.

Claim 19 recites in part "a routing mechanism configured to apply routing rules to the delivery of content to the client, including routing rules specific to the arena, if the client is a member of the arena." As noted above, Auerbach does not teach or suggest an arena having a plurality of nodes, nor the use of routing rules specific to the arena. Therefore, claim 19, and claims 22-28 which depend on it, are not anticipated by Auerbach.

### **Double Patenting**

The Examiner rejects the claims over non-statutory type double patenting over U.S. Application Serial No. 10/211,602. Applicants respectfully disagree.

The referenced application does not teach or suggest the use of an arena, at least one arena having a plurality of nodes. In fact, the application does not mention the concept of an arena at all. Therefore, Applicants respectfully submit that the pending claims, as amended, are not obvious over the claims of U.S. Application Serial No. 10/211,602. Thus, no terminal disclaimer is necessary in this case.

Applicants respectfully request the withdrawal of the provisional double patenting rejection.

## **Conclusion**

Applicant respectfully submits that in view of the amendments and discussion set forth herein, the applicable rejections have been overcome. Accordingly, the present and amended claims should be found to be in condition for allowance.

If a telephone interview would expedite the prosecution of this application, the Examiner is invited to contact Judith A. Szepesi at (408) 720-8300.

If there are any additional charges/credits, please charge/credit our deposit account no. 02-2666.

Respectfully submitted,  
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: April 25, 2008

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